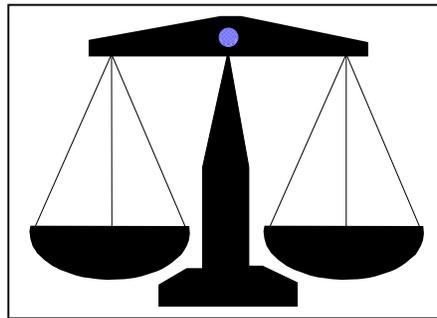


**NORTH CAROLINA
SENTENCING
AND
POLICY ADVISORY
COMMISSION**



***REPORT ON STUDY OF STRUCTURED SENTENCING
PURSUANT TO SESSION LAW 2001-424, SECTION 25.8***

***SUBMITTED TO THE 2002 SESSION OF THE
2001 NORTH CAROLINA GENERAL ASSEMBLY
MAY 2002***

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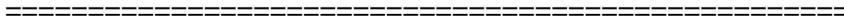
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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

REPORT TO THE NORTH CAROLINA GENERAL ASSEMBLY in compliance with SESSION LAW 2001-424, SECTION 25.8, STRUCTURED SENTENCING STUDY

May 2002

I. Introduction

The General Assembly passed the Structured Sentencing Act in 1993, with the laws governing sentencing in the state taking effect for all offenses committed on or after October 1, 1994. Since that time, there have been some changes to the structured sentencing laws, with the most notable changes occurring during the 1995 Session of the General Assembly: sentence lengths for Classes B2 through D felonies were increased by 16%, an active sentence was included as a dispositional alternative for Class H felons in Prior Record Levels I and II, and a new misdemeanor class (Class A1) was created to handle more serious misdemeanor assaults. During the 1997 Session, the General Assembly also increased penalties for drug sales.

Structured sentencing is based upon a number of underlying principles: public safety, truth in sentencing, consistency and certainty in sentencing, the prioritized use of correctional resources, and sentencing policies which are balanced with sufficient correctional resources. With these goals in mind, structured sentencing laws are achieving the results that were anticipated at its inception. More serious, violent, repeat offenders are incarcerated, while less serious, non-violent offenders with little or no criminal history are sentenced to intermediate or community sanctions. Imprisoned offenders, in compliance with truth in sentencing, serve at least 100% of their minimum active sentence imposed.

A rational sentencing structure and high quality court and correction data allow the North Carolina Sentencing and Policy Advisory Commission to provide long-range correctional population projections. These projections, presented annually to the General Assembly, forecast future correctional needs and assist legislators to better plan penal policies and manage correctional resources. For the past several years, projections have consistently shown a rise in the prison population which has pointed to a need for additional prison resources.

In January, 2001, the Sentencing Commission in conjunction with the Department of Correction's Research and Planning Office submitted prison population projections to the General Assembly which showed that there would be a shortage of prison beds as of June 30, 2002 and that 7,600 additional prison beds would be needed by Fiscal Year 2010. During the 2001 Session, the General Assembly approved the building of three prisons. It was also during the 2001 Session that the General Assembly passed legislation which mandated:

In exercising its statutory responsibility under Article 4 of Chapter 164 of the General Statutes to monitor and review the criminal justice and corrections system, the North Carolina Sentencing and Policy Advisory Commission shall study and review the State's sentencing laws in view of the projected growth in the prison population by 2010. Areas of review may include the classification of offenses and offenders, the relationship of the sentence and the sentence length to the offense, and the sentence dispositions available to judges. The Commission shall also analyze the parole-eligible population in terms of offense committed, sentence, and time served in comparison to inmates sentenced under structured sentencing. The Commission shall develop alternatives for consideration by the General Assembly. The alternatives presented by the Commission should ensure that sentencing laws appropriately penalize offenders for the nature and degree of harm caused by the offense while identifying inconsistencies in the structured sentencing law or in its application. The Commission's alternatives shall be consistent with the purposes of sentencing as stated in G.S. 15A-1340.12.

The North Carolina Sentencing and Policy Advisory Commission shall report its findings to the 2001 General Assembly no later than the convening of the 2002 Regular Session of the 2001 General Assembly. (Session Law 2001-424, Section 25.8.)

The Sentencing Commission responded by forming two subcommittees to study the areas of review that were noted in the mandate: offense and offender classification and sentence duration and disposition. Final reports of the subcommittees' work were submitted to the full Commission on January 11, 2002. At that time the Commission discussed and voted on all the issues presented by the subcommittees. The issues supported by a majority vote form the basis of the alternatives presented in this report. The full Commission adopted the final report at its meeting on March 15, 2002.

The alternatives developed, while offering ways to slow the projected increase in the need for prison beds, are offered with full consideration of public safety and the principles of structured sentencing. These are alternatives presented for consideration by the General Assembly, not necessarily recommendations by the North Carolina Sentencing and Policy Advisory Commission.

The first section of the report provides a short summary of all the alternatives presented to the General Assembly by the Commission. The main body of the report describes each of these alternatives, organized into the categories of: offense classification, offender classification, sentence duration, and sentence disposition. Each alternative is accompanied by commentary and the projected ten-year impact on the state's correctional population. The next section of the report provides statistical information on a comparative analysis of prison time served by Structured Sentencing offenders compared to parole eligible pre-Structured Sentencing offenders. Finally, the appendix to the report provides additional information including statistical data for the alternatives discussed.

II. Summary of Alternatives

The North Carolina Sentencing and Policy Advisory Commission, in response to the mandate contained in Section 25.8 of Session Law 2001-424, presents the following as alternatives to be considered by the General Assembly in lieu of construction of additional prisons:

- 1. Reclassify statutory rape or sexual offense of a person who is 13, 14, or 15 years old by a defendant who is more than four years but less than six years older (G.S. 14-27.7A(b)) from Class C to Class F.**
- 2. Punish habitual felons three classes higher than the offense classification for the principal offense, but in no case higher than Class C, and require an active sentence.**
- 3. Restructure the prior record level point ranges in order to expand the points in Prior Record Level I and to even out the remaining ranges.**
 - a. Alternative 1.** One prior record point, thereby including offenders with a prior countable misdemeanor conviction or a status point.
 - b. Alternative 2.** Two prior record points, thereby including offenders with a prior Class H or I felony conviction, two prior countable misdemeanor convictions, or a prior countable misdemeanor conviction and a status point.
- 4. Make the increase in sentence lengths between prior record levels more proportionate using a set percentage (15%) increment. The current sentence lengths in Prior Record Level I in each offense class would remain unchanged, serving as an anchor, while the sentence lengths between each subsequent prior record level would be increased by 15% in all classes except Classes H and I, which would remain unchanged.**
- 5. Reallocate three months from the minimum sentence of Classes B1 through E to the maximum sentence, for the purpose of increasing the period of imprisonment following revocation of post-release supervision from nine months to twelve months. Also increase the period of post-release supervision from nine months to twelve months.**
- 6. Amend the definition of special probation by removing the six month limitation for the active portion of the sentence, resulting in the time served being up to one-fourth of the maximum sentence imposed.**

III. Description of Alternatives

Offense Classification Alternatives

1. **Reclassify statutory rape or sexual offense of a person who is 13, 14, or 15 years old by a defendant who is more than four years but less than six years older (G.S. 14-27.7A(b)) from Class C to Class F.**

Commentary: The Commission reviewed frequently convicted offenses, offenses reclassified by the General Assembly since the enactment of structured sentencing, and offenses identified by individual members, to see if they were properly classified according to the Offense Classification Criteria. Members identified the offense of statutory rape or sexual offense of a person who is 13, 14, or 15 years old (G.S. 14-27.7A) for further consideration. They focused on subsection (b), which requires that the victim be 13, 14, or 15 years old and the defendant be more than four but less than six years older than the victim. This offense is a Class C felony. Class C felonies are those which reasonably tend to result in or do result in serious long-term personal injury or serious long-term or widespread societal injury, such as second degree rape or sexual offense, assault with a deadly weapon with intent to kill inflicting serious injury, first degree kidnapping, and child abuse inflicting serious injury. Several members stated that in their experience the defendant and the victim were usually both teenagers and the relationship was consensual; their age is the element that triggers the offense. The Commission decided that this offense would be more appropriately classified as a Class F felony where offenses reasonably tend to result in or do result in significant personal injury or serious societal injury. However, the Commission also decided that statutory rape or sexual offense of a person who is 13, 14, or 15 years old by a defendant at least six years older (G.S. 14-27.7A(a)) should remain a Class B1 felony.

IMPACT OF ALTERNATIVE ON PRISON POPULATION

Alternative 1: Reclassify statutory rape or sexual offense of a person who is 13, 14, or 15 years old by a defendant who is more than four but less than six years older (G.S. 14-27.7A(b)) from Class C to Class F.

FISCAL YEAR	ESTIMATED IMPACT
1	1
2	-1
3	-5
4	-5
5	-9
6	-15
7	-17
8	-21
9	-24
10	-29

Notes

1. *Disposition:* Estimates assume that judges will continue to impose active punishments for these cases.
2. *Estimated Sentence Length:* Since these cases have been reclassified to new cells on the felony punishment chart, the sentence length at the midpoint of the new cells was used as the basis for determining the estimated time to be served.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2000/2001 Felony Simulation Data

2. Punish habitual felons three classes higher than the offense classification for the principal offense, but in no case higher than Class C, and require an active sentence.

Commentary: All habitual felons are punished as Class C felons regardless of the class of their principal offenses. While the concept of punishing habitual felons more severely is fully embraced by the Commission, it was decided that it would be more consistent with the principles of structured sentencing to make the punishment more proportionate to the principal offense. Qualifying offenders who are convicted of offenses in Classes C through F would continue to be punished as Class C felons while offenders convicted of offenses in Classes G, H, and I, which are primarily property offenses, would be punished in the classes below Class C. Because these offenders are classified as habitual felons, the Commission proposes retaining the exception to structured sentencing and requiring an active sentence regardless of the recommended disposition in the felony punishment chart. The Commission decided not to change the requirements for qualifying as an habitual felon or the prosecutor's discretion to charge a defendant as an habitual felon.

IMPACT OF ALTERNATIVE ON PRISON POPULATION

Alternative 2: Punish habitual felons three classes higher than the offense classification for the principal offense, but in no case higher than Class C, and require an active sentence.

FISCAL YEAR	ESTIMATED IMPACT
1	1
2	-52
3	-233
4	-548
5	-949
6	-1,306
7	-1,547
8	-1,686
9	-1,800
10	-1,879

Notes

1. *Disposition:* Estimates assume mandatory active sentences.
2. *Estimated Sentence Length:* Since these cases have been reclassified to new cells on the felony punishment chart, the sentence length at the midpoint of the new cells was used as the basis for determining the estimated time to be served.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2000/2001 Felony Simulation Data

Offender Classification Alternative

3. Restructure the prior record level point ranges in order to expand the points in Prior Record Level I and to even out the remaining ranges.

Commentary: The Commission focused on two inconsistencies with the current prior record levels and ranges: (1) Prior Record Level I does not necessarily represent the true first offender, and (2) the point ranges for each prior record level are not consistent.

(1) Prior Record Level I appears to apply to an offender with no prior record; however, an offender with a prior Class 2 or 3 misdemeanor conviction or a prior Chapter 20 misdemeanor conviction (other than impaired driving, impaired driving in a commercial vehicle, and misdemeanor death by vehicle offenses) may also be in this level because points are not assigned for those prior convictions. The Commission proposes expanding Prior Record Level I to include:

a. Option 1. One prior record point, thereby including offenders with a prior countable misdemeanor conviction or a status point.

b. Option 2. Two prior record points, thereby including offenders with a prior Class H or I felony conviction, two prior countable misdemeanor convictions, or a prior countable misdemeanor conviction and a status point.

(2) Prior Record Level IV covers six points while the other levels cover four points. The Commission proposes making Levels II through V consistent by covering four points each, regardless of how many points are covered in Level I.

PRIOR RECORD LEVEL OPTIONS

PRIOR RECORD LEVEL	OPTION 1	OPTION 2
I	0-1	0-2
II	2-5	3-6
III	6-9	7-10
IV	10-13	11-14
V	14-17	15-18
VI	18+	19+

IMPACT OF ALTERNATIVE ON PRISON POPULATION

Alternative 3: Restructure the prior record level point ranges in order to expand the points in Prior Record Level I and to even out the remaining ranges. Make Prior Record Levels II through V consistent by covering four points each. Expand Prior Record Level I to include:

Option 1: one prior record point.

Option 2: two prior record points.

FISCAL YEAR	ESTIMATED IMPACT Option 1	ESTIMATED IMPACT Option 2
1	-296	-625
2	-393	-914
3	-435	-1,026
4	-487	-1,129
5	-545	-1,255
6	-628	-1,414
7	-685	-1,543
8	-725	-1,659
9	-766	-1,754
10	-802	-1,840

Notes

1. *Disposition:* Estimates assume that a case moving to a new prior record level will be treated like all other cases in the new prior record level in terms of the type of disposition imposed.
2. *Estimated Sentence Length:* The relative location of the minimum sentence within the current sentencing range was calculated and applied to the new sentencing range to determine the estimated minimum sentence. For example: an offender falls in Class G with Prior Record Level II and receives a minimum sentence of 14 months. The relative location of his minimum sentence falls in the 50th percentile of the sentencing range for this cell on the felony punishment chart. Given the assumption, if this offender is reclassified to Prior Record Level I, the estimated minimum sentence imposed would fall in the 50th percentile of the Class G, Prior Record Level I range, resulting in an estimated minimum sentence of 12 months.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2000/2001 Felony Simulation Data

Sentence Duration Alternative

- 4. Make the increase in sentence lengths between prior record levels more proportionate using a set percentage (15%) increment. The current sentence lengths in Prior Record Level I in each offense class would remain unchanged, serving as an anchor, while the sentence lengths between each subsequent prior record level would be increased by 15% in all classes except Classes H and I, which would remain unchanged.**

Commentary: The Commission looked at the proportionality of sentence lengths in the presumptive range of the felony punishment chart, both between offense classes and across prior record levels. Although a disproportionate increase in sentence lengths between offense classes was identified, Commission members felt this increase was appropriate given the nature of the offenses assigned to each class. The Commission, however, was concerned with the fact that the increase in sentence lengths from one prior record level to the next was not consistent within the Felony Punishment Chart. Because the methodology of using a percentage increase across prior record levels best restores proportionality to the felony grid, the Commission adopted it.

The Commission, however, expressed concern that, by using the 15% proportional increase in Classes H and I, sentence lengths in Prior Record Levels II through VI would become too short. Commission members discussed the current sentence lengths for these classes, the types of offenses included in these classes, and the large volume of offenders convicted of these offenses. In response to concerns raised by members, the Commission voted to retain current penalty ranges in Offense Classes H and I.

Under this alternative, sentence lengths in 45% of the Felony Punishment Chart grid cells would be reduced. Sentence lengths in the other 55% of the grid cells would remain the same or increase. Of the felony convictions in FY 2000/01, less than 14% would have been sentenced in grid cells with reduced sentences; the other 86% of the felony convictions would have been sentenced in grid cells where sentence lengths would be either increased or unchanged.

IMPACT OF ALTERNATIVE ON PRISON POPULATION

Alternative 4: *Make the increase in sentence lengths between prior record levels more proportionate using a set percentage (15%) increment. The current sentence lengths in Prior Record Level I in each offense class would remain unchanged, serving as an anchor, while the sentence lengths between each subsequent prior record level would be increased by 15 percent in all classes except Classes H and I, which would remain unchanged.*

FISCAL YEAR	ESTIMATED IMPACT
1	36
2	66
3	30
4	-22
5	-127
6	-337
7	-561
8	-752
9	-932
10	-1,084

Notes

1. *Estimated Sentence Length:* Except for Classes H and I, the sentencing ranges in Prior Record Levels II through VI would be changed by this alternative. The relative location of the minimum sentence within the current sentencing range was calculated and applied to the new sentencing range to determine the estimated minimum sentence. For example: an offender falls in Class G with Prior Record Level II and receives a minimum sentence of 14 months. The relative location of his minimum sentence falls in the 50th percentile of the sentencing range for this cell on the felony punishment chart. Given the assumption, the estimated sentence length would fall in the 50th percentile of the modified sentencing range of Class G, Prior Record Level II resulting in a sentence of 13.5 months.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2000/2001 Felony Simulation Data

ALTERNATIVE #4

Keep PRL I as is and make 15% increases between each PRL, except for Class H and Class I durations which remain as they are on the current felony punishment chart

DRAFT FELONY PUNISHMENT CHART

PRIOR RECORD LEVEL

OFFENSE CLASS

	I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts	
A	Death or Life Without Parole						
B1	A <i>240 - 300</i>	A <i>276 - 345</i>	A <i>317 - 397</i>	A <i>365 - 456</i>	A <i>Life Without Parole</i>	A <i>Life Without Parole</i>	DISPOSITION <i>Aggravated Range</i>
	192 - 240	221 - 276	254 - 317	292 - 365	336 - 420	386 - 483	PRESUMPTIVE RANGE
	<i>144 - 192</i>	<i>166 - 221</i>	<i>190 - 254</i>	<i>219 - 292</i>	<i>252 - 336</i>	<i>290 - 386</i>	<i>Mitigated Range</i>
B2	A <i>157 - 196</i>	A <i>180 - 225</i>	A <i>207 - 258</i>	A <i>238 - 297</i>	A <i>273 - 342</i>	A <i>314 - 393</i>	
	125 - 157	144 - 180	165 - 207	190 - 238	219 - 273	251 - 314	
	<i>94 - 125</i>	<i>108 - 144</i>	<i>124 - 165</i>	<i>143 - 190</i>	<i>164 - 219</i>	<i>189 - 251</i>	
C	A <i>73 - 92</i>	A <i>83 - 104</i>	A <i>96 - 120</i>	A <i>110 - 138</i>	A <i>127 - 159</i>	A <i>146 - 182</i>	
	58 - 73	67 - 83	77 - 96	88 - 110	101 - 127	117 - 146	
	<i>44 - 58</i>	<i>50 - 67</i>	<i>58 - 77</i>	<i>66 - 88</i>	<i>76 - 101</i>	<i>87 - 117</i>	
D	A <i>64 - 80</i>	A <i>73 - 92</i>	A <i>84 - 105</i>	A <i>97 - 121</i>	A <i>111 - 139</i>	A <i>128 - 160</i>	
	51 - 64	59 - 73	67 - 84	78 - 97	89 - 111	103 - 128	
	<i>38 - 51</i>	<i>44 - 59</i>	<i>51 - 67</i>	<i>58 - 78</i>	<i>67 - 89</i>	<i>77 - 103</i>	
E	I/A <i>25 - 31</i>	I/A <i>29 - 36</i>	A <i>33 - 41</i>	A <i>38 - 48</i>	A <i>44 - 55</i>	A <i>50 - 63</i>	
	20 - 25	23 - 29	26 - 33	30 - 38	35 - 44	40 - 50	
	<i>15 - 20</i>	<i>17 - 23</i>	<i>20 - 26</i>	<i>23 - 30</i>	<i>26 - 35</i>	<i>30 - 40</i>	
F	I/A <i>16 - 20</i>	I/A <i>19 - 23</i>	I/A <i>21 - 27</i>	A <i>25 - 31</i>	A <i>28 - 36</i>	A <i>33 - 41</i>	
	13 - 16	15 - 19	17 - 21	20 - 25	23 - 28	26 - 33	
	<i>10 - 13</i>	<i>11 - 15</i>	<i>13 - 17</i>	<i>15 - 20</i>	<i>17 - 23</i>	<i>20 - 26</i>	
G	I/A <i>13 - 16</i>	I/A <i>14 - 18</i>	I/A <i>17 - 21</i>	I/A <i>19 - 24</i>	A <i>22 - 27</i>	A <i>25 - 31</i>	
	10 - 13	12 - 14	13 - 17	15 - 19	17 - 22	20 - 25	
	<i>8 - 10</i>	<i>9 - 12</i>	<i>10 - 13</i>	<i>11 - 15</i>	<i>13 - 17</i>	<i>15 - 20</i>	
H	C/I/A <i>6 - 8</i>	I/A <i>8 - 10</i>	I/A <i>10 - 12</i>	I/A <i>11 - 14</i>	I/A <i>15 - 19</i>	A <i>20 - 25</i>	
	5 - 6	6 - 8	8 - 10	9 - 11	12 - 15	16 - 20	
	<i>4 - 5</i>	<i>4 - 6</i>	<i>6 - 8</i>	<i>7 - 9</i>	<i>9 - 12</i>	<i>12 - 16</i>	
I	C <i>6 - 8</i>	C/I <i>6 - 8</i>	I <i>6 - 8</i>	I/A <i>8 - 10</i>	I/A <i>9 - 11</i>	I/A <i>10 - 12</i>	
	4 - 6	4 - 6	5 - 6	6 - 8	7 - 9	8 - 10	
	<i>3 - 4</i>	<i>3 - 4</i>	<i>4 - 5</i>	<i>4 - 6</i>	<i>5 - 7</i>	<i>6 - 8</i>	

Note: A - Active Punishment I - Intermediate Punishment C - Community Punishment
 *Numbers shown are in months and represent the range of minimum sentences.

MINIMUM AND MAXIMUM SENTENCES

The corresponding maximum sentence for each minimum sentence is shown in the tables below. In each column, the number to the left of the dash represents the minimum sentence (in months) and the number to the right of the dash represents the corresponding maximum sentence (in months). To calculate a maximum sentence when the minimum sentence is 340 months or more, see G.S. 15A-1340.17(e1).

FOR OFFENSE CLASSES B1 THROUGH E

15-27	56-77	97-126	138-175	179-224	220-273	261-323	302-372
16-29	57-78	98-127	139-176	180-225	221-275	262-324	303-373
17-30	58-79	99-128	140-177	181-227	222-276	263-325	304-374
18-31	59-80	100-129	141-179	182-228	223-277	264-326	305-375
19-32	60-81	101-131	142-180	183-229	224-278	265-327	306-377
20-33	61-83	102-132	143-181	184-230	225-279	266-329	307-378
21-35	62-84	103-133	144-182	185-231	226-281	267-330	308-379
22-36	63-85	104-134	145-183	186-233	227-282	268-331	309-380
23-37	64-86	105-135	146-185	187-234	228-283	269-332	310-381
24-38	65-87	106-137	147-186	188-235	229-284	270-333	311-383
25-39	66-89	107-138	148-187	189-236	230-285	271-335	312-384
26-41	67-90	108-139	149-188	190-237	231-287	272-336	313-385
27-42	68-91	109-140	150-189	191-239	232-288	273-337	314-386
28-43	69-92	110-141	151-191	192-240	233-289	274-338	315-387
29-44	70-93	111-143	152-192	193-241	234-290	275-339	316-389
30-45	71-95	112-144	153-193	194-242	235-291	276-341	317-390
31-47	72-96	113-145	154-194	195-243	236-293	277-342	318-391
32-48	73-97	114-146	155-195	196-245	237-294	278-343	319-392
33-49	74-98	115-147	156-197	197-246	238-295	279-344	320-393
34-50	75-99	116-149	157-198	198-247	239-296	280-345	321-395
35-51	76-101	117-150	158-199	199-248	240-297	281-347	322-396
36-53	77-102	118-151	159-200	200-249	241-299	282-348	323-397
37-54	78-103	119-152	160-201	201-251	242-300	283-349	324-398
38-55	79-104	120-153	161-203	202-252	243-301	284-350	325-399
39-56	80-105	121-155	162-204	203-253	244-302	285-351	326-401
40-57	81-107	122-156	163-205	204-254	245-303	286-353	327-402
41-59	82-108	123-157	164-206	205-255	246-305	287-354	328-403
42-60	83-109	124-158	165-207	206-257	247-306	288-355	329-404
43-61	84-110	125-159	166-209	207-258	248-307	289-356	330-405
44-62	85-111	126-161	167-210	208-259	249-308	290-357	331-407
45-63	86-113	127-162	168-211	209-260	250-309	291-359	332-408
46-65	87-114	128-163	169-212	210-261	251-311	292-360	333-409
47-66	88-115	129-164	170-213	211-263	252-312	293-361	334-410
48-67	89-116	130-165	171-215	212-264	253-313	294-362	335-411
49-68	90-117	131-167	172-216	213-265	254-314	295-363	336-413
50-69	91-119	132-168	173-217	214-266	255-315	296-365	337-414
51-71	92-120	133-169	174-218	215-267	256-317	297-366	338-415
52-72	93-121	134-170	175-219	216-269	257-318	298-367	339-416
53-73	94-122	135-171	176-221	217-270	258-319	299-368	
54-74	95-123	136-173	177-222	218-271	259-320	300-369	
55-75	96-125	137-174	178-223	219-272	260-321	301-371	

FOR OFFENSE CLASSES F THROUGH I

3-4	9-11	15-18	21-26	27-33	33-40	39-47	45-54
4-5	10-12	16-20	22-27	28-34	34-41	40-48	46-56
5-6	11-14	17-21	23-28	29-35	35-42	41-50	47-57
6-8	12-15	18-22	24-29	30-36	36-44	42-51	48-58
7-9	13-16	19-23	25-30	31-38	37-45	43-52	49-59
8-10	14-17	20-24	26-32	32-39	38-46	44-53	

Sentence Duration Alternative

- 5. Reallocate three months from the minimum sentence of Classes B1 through E to the maximum sentence, for the purpose of increasing the period of imprisonment following revocation of post-release supervision from nine months to twelve months. Also increase the period of post-release supervision from nine months to twelve months.**

Commentary: The Commission reviewed the current post-release supervision provisions. Post-release supervision is a nine month mandatory period of supervision for Classes B1 through E felons following their release from prison after serving at least their minimum sentence imposed. The period of revocation from post-release supervision is built into the maximum sentence. The primary purpose of post-release supervision is to monitor and assist in the reintegration of this specific group of offenders. Post-release supervisees are monitored by Division of Community Correction probation officers. It is very probable that this option would require additional community resources, including a need for an increase in probation officers.

If an offender is on post-release supervision and is revoked by the Post-Release Supervision and Parole Commission, the offender would return to prison for a period of twelve months instead of the current nine month period. The Commission decided that there would be merit to extending the term of supervision to twelve months in order to lengthen the period of reintegration and monitoring provided to offenders following their release from prison.

IMPACT OF ALTERNATIVE ON PRISON POPULATION

Alternative 5: *Reallocate three months from the minimum sentence of Classes B1 through E to the maximum sentence for the purpose of increasing the period of imprisonment following revocation of post-release supervision from nine months to twelve months. Also increase the period of post-release supervision from nine months to twelve months.*

FISCAL YEAR	ESTIMATED IMPACT
1	6
2	-96
3	-195
4	-249
5	-309
6	-380
7	-447
8	-509
9	-549
10	-591

Notes

1. Many offenders who will be placed on post-release supervision have yet to be released from prison. Therefore, these projections are based on preliminary post-release supervision and revocation data from the Department of Correction, which may affect the projected impact of this alternative. It is assumed that the post-release supervision revocation rate will remain the same as it was in FY 2000/2001.
2. The length of prison time imposed for revocation was changed from nine months (current law) to 12 months (as proposed).

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2000/2001 Felony Simulation Data

**ALTERNATIVE #5
REALLOCATION OF TIME UNDER POST-RELEASE SUPERVISION: OFFENSE CLASSES B1 – E**

DRAFT FELONY PUNISHMENT CHART

PRIOR RECORD LEVEL

	I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts
A	Death or Life Without Parole					
B1	A 237 - 297	A 285 - 357	A 333 - 417	A 381-477	A <i>Life Without Parole</i>	A <i>Life Without Parole</i>
	189 - 237	227 - 285	266 - 333	304 - 381	343 - 430	381 - 477
	141 - 189	170 - 227	199 - 266	227 - 304	257 - 343	285 - 381
B2	A 154 - 193	A 186 - 234	A 217 - 273	A 248 - 310	A 279 - 350	A 310 - 389
	122 - 154	148 - 186	173 - 217	198 - 248	222 - 279	248 - 310
	91 - 122	111 - 148	129 - 173	148 - 198	166 - 222	185 - 248
C	A 70 - 89	A 97 - 122	A 113 - 142	A 130 - 164	A 148 - 185	A 165 - 207
	55 - 70	77 - 97	90 - 113	104 - 130	118 - 148	132 - 165
	41 - 55	57 - 77	67 - 90	77 - 104	87 - 118	98 - 132
D	A 61 - 77	A 74 - 92	A 100 - 126	A 114 - 143	A 130 - 164	A 143 - 180
	48 - 61	58 - 74	79 - 100	91 - 114	104 - 130	114 - 143
	35 - 48	43 - 58	58 - 79	68 - 91	77 - 104	85 - 114
E	I/A 22 - 28	I/A 26 - 33	A 31 - 39	A 43 - 55	A 50 - 63	A 56 - 71
	17 - 22	20 - 26	24 - 31	34 - 43	39 - 50	44 - 56
	12 - 17	14 - 20	17 - 24	25 - 34	29 - 39	32 - 44
F	16 - 20	19 - 24	21 - 26	25 - 31	34 - 42	39 - 49
	13 - 16	15 - 19	17 - 21	20 - 25	27 - 34	31 - 39
	10 - 13	11 - 15	13 - 17	15 - 20	20 - 27	23 - 31
G	I/A 13 - 16	I/A 15 - 19	I/A 16 - 20	I/A 20 - 25	A 21 - 26	A 29 - 36
	10 - 13	12 - 15	13 - 16	16 - 20	17 - 21	23 - 29
	8 - 10	9 - 12	10 - 13	12 - 16	13 - 17	17 - 23
H	C/I/A 6 - 8	I/A 8 - 10	I/A 10 - 12	I/A 11 - 14	I/A 15 - 19	A 20 - 25
	5 - 6	6 - 8	8 - 10	9 - 11	12 - 15	16 - 20
	4 - 5	4 - 6	6 - 8	7 - 9	9 - 12	12 - 16
I	C 6 - 8	C/I 6 - 8	I 6 - 8	I/A 8 - 10	I/A 9 - 11	I/A 10 - 12
	4 - 6	4 - 6	5 - 6	6 - 8	7 - 9	8 - 10
	3 - 4	3 - 4	4 - 5	4 - 6	5 - 7	6 - 8

DISPOSITION
<i>Aggravated Range</i>
PRESUMPTIVE RANGE
<i>Mitigated Range</i>

OFFENSE CLASS

Note: A - Active Punishment I - Intermediate Punishment C - Community Punishment
*Numbers shown are in months and represent the range of minimum sentences.

MINIMUM AND MAXIMUM SENTENCES FOR ALTERNATIVE #5

The corresponding maximum sentence for each minimum sentence is shown in the tables below. In each column, the number to the left of the dash represents the minimum sentence (in months) and the number to the right of the dash represents the corresponding maximum sentence (in months). To calculate a maximum sentence when the minimum sentence is 340 months or more, see G.S. 15A-1340.17(e1).

FOR OFFENSE CLASSES B1 THROUGH E

15-30	56-80	97-129	138-178	179-227	220-276	261-326	302-375
16-32	57-81	98-130	139-179	180-228	221-278	262-327	303-376
17-33	58-82	99-131	140-180	181-230	222-279	263-328	304-377
18-34	59-83	100-132	141-182	182-231	223-280	264-329	305-378
19-35	60-84	101-134	142-183	183-232	224-281	265-330	306-380
20-36	61-86	102-135	143-184	184-233	225-282	266-332	307-381
21-38	62-87	103-136	144-185	185-234	226-284	267-333	308-382
22-39	63-88	104-137	145-186	186-236	227-285	268-334	309-383
23-40	64-89	105-138	146-188	187-237	228-286	269-335	310-384
24-41	65-90	106-140	147-189	188-238	229-287	270-336	311-386
25-42	66-92	107-141	148-190	189-239	230-288	271-338	312-387
26-44	67-93	108-142	149-191	190-240	231-290	272-339	313-388
27-45	68-94	109-143	150-192	191-242	232-291	273-340	314-389
28-46	69-95	110-144	151-194	192-243	233-292	274-341	315-390
29-47	70-96	111-146	152-195	193-244	234-293	275-342	316-392
30-48	71-98	112-147	153-196	194-245	235-294	276-344	317-393
31-50	72-99	113-148	154-197	195-246	236-296	277-345	318-394
32-51	73-100	114-149	155-198	196-248	237-297	278-346	319-395
33-52	74-101	115-150	156-200	197-249	238-298	279-347	320-396
34-53	75-102	116-152	157-201	198-250	239-299	280-348	321-398
35-54	76-104	117-153	158-202	199-251	240-300	281-350	322-399
36-56	77-105	118-154	159-203	200-252	241-302	282-351	323-400
37-57	78-106	119-155	160-204	201-254	242-303	283-352	324-401
38-58	79-107	120-156	161-206	202-255	243-304	284-353	325-402
39-59	80-108	121-158	162-207	203-256	244-305	285-354	326-404
40-60	81-110	122-159	163-208	204-257	245-306	286-356	327-405
41-62	82-111	123-160	164-209	205-258	246-308	287-357	328-406
42-63	83-112	124-161	165-210	206-260	247-309	288-358	329-407
43-64	84-113	125-162	166-212	207-261	248-310	289-359	330-408
44-65	85-114	126-164	167-213	208-262	249-311	290-360	331-410
45-66	86-116	127-165	168-214	209-263	250-312	291-362	332-411
46-68	87-117	128-166	169-215	210-264	251-314	292-363	333-412
47-69	88-118	129-167	170-216	211-266	252-315	293-364	334-413
48-70	89-119	130-168	171-218	212-267	253-316	294-365	335-414
49-71	90-120	131-170	172-219	213-268	254-317	295-366	336-416
50-72	91-122	132-171	173-220	214-269	255-318	296-368	337-417
51-74	92-123	133-172	174-221	215-270	256-320	297-369	338-418
52-75	93-124	134-173	175-222	216-272	257-321	298-370	339-419
53-76	94-125	135-174	176-224	217-273	258-322	299-371	
54-77	95-126	136-176	177-225	218-274	259-323	300-372	
55-78	96-128	137-177	178-226	219-275	260-324	301-374	

FOR OFFENSE CLASSES F THROUGH I

3-4	9-11	15-18	21-26	27-33	33-40	39-47	45-54
4-5	10-12	16-20	22-27	28-34	34-41	40-48	46-56
5-6	11-14	17-21	23-28	29-35	35-42	41-50	47-57
6-8	12-15	18-22	24-29	30-36	36-44	42-51	48-58
7-9	13-16	19-23	25-30	31-38	37-45	43-52	49-59
8-10	14-17	20-24	26-32	32-39	38-46	44-53	

Sentence Disposition Alternative

- 6. Amend the definition of special probation by removing the six month limitation for the active portion of the sentence, resulting in the time served being up to one-fourth of the maximum sentence imposed.**

Commentary: Special probation (split sentence), which is an intermediate sanction, is presently defined as a period of active confinement followed by a period of probation. The current statute states that the active portion of the sentence cannot exceed six months or one-fourth of the maximum sentence imposed, whichever is less. The Commission believed that, by amending the definition to remove the six month limitation, judges might be more amenable to giving an offender special probation rather than an active sentence when an Intermediate sanction is authorized. Commission members also discussed that a change in the definition of special probation may lead to a more frequent use of extraordinary mitigation as a judge could impose special probation with a longer active sentence than is currently authorized. This amended definition would currently impact only a limited number of grid cells, those which have an Intermediate option and in which the maximum sentence could be more than twenty-four months.

Since the simulation model only projects active cases and does not project the utilization of specific Intermediate punishments, it is not possible to estimate the prison bed savings that would result from this option.

IV. Comparison of Time Served by Parole-eligible and Structured Sentencing Prisoners

Session Law 2001-424, Section 25.8, states “[t]he Commission shall also analyze the parole-eligible population in terms of offense committed, sentence, and time served in comparison to inmates sentenced under structured sentencing.” This section reports the results of this comparative analysis.

The following analysis is of the 2,952 felons who were sentenced under pre-Structured Sentencing laws, still in prison and eligible for parole as of April 4, 2002. This group of offenders is compared to 9,262 felons convicted and sentenced to prison under Structured Sentencing in FY 2000/01. It should be noted that the two cohorts are not directly comparable. The Structured Sentencing inmates represent all felony offenders sentenced to prison under Structured Sentencing in one fiscal year, while the old law inmates represent the more serious offenders who were sentenced in various years and are still in prison. Those offenders with shorter sentences have been released, so the remaining offenders may have longer prior records, longer and more consecutive sentences, and more discipline problems in prison.

A further note is in order regarding the context within which the old law offenders in the sample were sentenced and later reviewed for parole. During the developing prison bed shortage and subsequent prison cap of the late 1980's and early 1990's, offenders served increasingly smaller portions of their imposed sentences. This often led judges to impose longer sentences, and in multi-count cases to run those sentences consecutively. With truth in sentencing and the abolition of parole under Structured Sentencing, these practices were discontinued. On the other hand, under the new reality of Structured Sentencing and more prison beds becoming available in the second half of the 1990's, the Parole Commission became more conservative in reviewing and paroling offenders.

While most felonies remained classified in the same offense class they were under the Fair Sentencing Act, the Structured Sentencing Act changed the classification of some offenses. Comparing sentences imposed and time served between parole-eligible prisoners and Structured Sentencing prisoners, Table 1 displays the comparison by offense class for old law cases where the offense of conviction was not reclassified. Table 2 displays the comparison by specific offenses that were reclassified into different offense classes under Structured Sentencing. As an interpretive framework for the sentences imposed, a list of presumptive and maximum sentences follows for felony offense classes A-J under the Fair Sentencing Act.

**STATUTORY PRESUMPTIVE AND MAXIMUM SENTENCES
UNDER THE FAIR SENTENCING ACT BY OFFENSE CLASS**

OFFENSE CLASS	PRESUMPTIVE SENTENCE ¹ (months)	MAXIMUM SENTENCE ² (months)
A	Death or life imprisonment with parole	
B1	Life imprisonment with parole	
B2		
C	180	600 or life w/parole
D	144	480
E	108	360
F	72	240
G	54	180
H	36	120
I	24	60
J	12	36

¹N.C. Gen. Stat. § 15A-1340.4, repealed by Session Laws 1993, c. 538, s. 14.

²N.C. Gen. Stat. § 14-1.1, repealed by Session Laws 1993, c. 538, s. 2.

TABLE 1
Comparison of Time Served for Parole Eligible Offenders and
Offenders Sentenced under the Structured Sentencing Act:
Class of Conviction Where Offenses Were Not Reclassified¹

Most Serious Offense Class	Non-Structured Sentencing Act Offenders Eligible for Parole as of April 4, 2002 ²			Structured Sentencing Act Offenders Convicted in FY 2000/01	
	Number	Average Sentence(s) Imposed (months) ³	Average Time Served to Date (months)	Number	Average Expected Time to be Served (months) ⁴
A	187	619.3	307.1	84	<i>Life w/o Parole</i>
B1				104	284.5
B2	1	630.6	98.7	64	217.5
C	154	438.1	125.8	662	95.2
D	433	464.9	144.6	621	77.8
E	34	509.5	210.8	311	29.5
F	6	238.3	66.2	554	18.4
H	283	322.8	90.9	3,500	10.3
I	46	248.4	74.4	1,026	7.0
J	1	255.7	94.8	N/A	N/A
Unknown	7	494.9	213.6	N/A	N/A
Total	1,167	442.5	153.9	7,352	37.3

SOURCE: NC Department of Correction and NC Sentencing and Policy Advisory Commission

¹ The table includes offenses that were classified within the same offense class under the Fair Sentencing Act and the Structured Sentencing Act. It also includes 38 offenses which were reclassified but contained less than 10 cases.

² The Department of Correction's OPUS database was used to identify offenders who were serving "old law" sentences and were eligible for parole as of April 4, 2002. The analysis does not include offenders who have not yet reached their parole eligibility date or those offenders with mixed "old law/new law" sentences.

³ Average sentence(s) imposed takes into account consecutive sentences for multiple offenses.

⁴ Estimated time to be served takes into account credit for time served and estimated percentage of the minimum sentence to be served using the NC Sentencing and Policy Advisory's FY 2000/01 Felony Simulation data. Although an adjustment to the estimated time to be served was made to account for consecutive sentences, the data on consecutive sentences were incomplete resulting in some underestimation of time to be served.

TABLE 2
Comparison of Time Served for Parole Eligible Offenders and
Offenders Sentenced under the Structured Sentencing Act:
Offenses Reclassified under the Structured Sentencing Act¹

Most Serious Offense	Non-Structured Sentencing Act Offenders Eligible for Parole as of April 4, 2002 ²			Structured Sentencing Act Offenders Convicted in FY 2000/01	
	Number	Average Sentence(s) Imposed (months) ³	Average Time Served to Date (months)	Number	Average Expected Time to be Served (months) ⁴
1 st Degree Rape	137	621.0	308.0	30	365.8
1 st Degree Sexual Offense	15	628.6	221.3	0	-
2 nd Degree Murder	937	562.3	160.0	216	193.5
2 nd Degree Rape	112	627.2	225.5	64	90.6
2 nd Degree Sexual Offense	37	540.4	157.0	47	87.8
AWDW Intent to Kill Inflicting Serious Injury	110	501.4	134.7	88	112.4
1 st Degree Kidnapping	21	601.6	188.9	51	146.9
Voluntary Manslaughter	21	271.1	103.9	66	66.7
1 st Degree Burglary	124	538.8	164.6	63	88.0
1 st Degree Arson	15	454.7	128.4	6	84.7
AWDW Serious Injury	31	304.3	93.2	221	30.5
Indecent Liberties w/Child	84	287.4	69.1	245	23.9
2 nd Degree Burglary	54	445.1	149.2	67	18.0
Common Law Robbery	52	321.0	104.0	389	16.8
Sell Schedule II CS/Cocaine	35	357.6	90.4	357	16.2
TOTAL	1,785	529.7	165.3	1,910	61.1

SOURCE: NC Department of Correction and NC Sentencing and Policy Advisory Commission

¹ The table includes offenses that were reclassified under the Structured Sentencing Act. It does not include 38 offenses which were reclassified but contained less than 10 cases.

² The Department of Correction's OPUS database was used to identify offenders who were serving "old law" sentences and were eligible for parole as of April 4, 2002. The analysis does not include offenders who have not yet reached their parole eligibility date or those offenders with mixed "old law/new law" sentences.

³ Average sentence(s) imposed takes into account consecutive sentences for multiple offenses.

⁴ Estimated time to be served takes into account credit for time served and estimated percentage of the minimum sentence to be served using the NC Sentencing and Policy Advisory's FY 2000/01 Felony Simulation data. Although an adjustment to the estimated time to be served was made to account for consecutive sentences, the data on consecutive sentences were incomplete resulting in some underestimation of time to be served.

APPENDICES

- A. Copy of Mandate
- B. Correctional Population Projections
- C. Current Law:
 - Felony Punishment Grid
 - Prior Record Level Worksheet
 - Examples of Felony Offenses
- D. Additional Statistical Information
- E. Draft Legislation

Appendix A

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-424
SENATE BILL 1005**

**AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE
DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.**

The General Assembly of North Carolina enacts:

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Kerr, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

STRUCTURED SENTENCING STUDY

SECTION 25.8.(a) In exercising its statutory responsibility under Article 4 of Chapter 164 of the General Statutes to monitor and review the criminal justice and corrections system, the North Carolina Sentencing and Policy Advisory Commission shall study and review the State's sentencing laws in view of the projected growth in the prison population by 2010. Areas of review may include the classification of offenses and offenders, the relationship of the sentence and the sentence length to the offense, and the sentence dispositions available to judges. The Commission shall also analyze the parole-eligible population in terms of offense committed, sentence, and time served in comparison to inmates sentenced under structured sentencing. The Commission shall develop alternatives for consideration by the General Assembly. The alternatives presented by the Commission should ensure that sentencing laws appropriately penalize offenders for the nature and degree of harm caused by the offense while identifying inconsistencies in the structured sentencing law or in its application. The Commission's alternatives shall be consistent with the purposes of sentencing as stated in G.S. 15A-1340.12.

SECTION 25.8.(b) The North Carolina Sentencing and Policy Advisory Commission shall report its findings to the 2001 General Assembly no later than the convening of the 2002 Regular Session of the 2001 General Assembly.

Appendix B

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**PRISON POPULATION PROJECTIONS:
UPDATED DECEMBER 2001**

**PREPARED IN CONJUNCTION WITH THE DEPARTMENT OF
CORRECTION'S RESEARCH AND PLANNING OFFICE**

FISCAL YEAR	PREVIOUS PROJECTION as of June 30	REVISED PROJECTION as of June 30	<i>ESTIMATE OF EXPANDED OPERATING PRISON CAPACITY¹</i>	<i>ESTIMATE OF STANDARD OPERATING PRISON CAPACITY²</i>
02	33,141	33,188	32,087	28,627
03	33,954	34,129	32,087	28,627
04	34,738	34,840	34,679	31,219
05	35,682	35,647	34,847	31,387
06	36,590	36,485	34,847	31,387
07	37,560	37,405	34,847	31,387
08	38,483	38,306	34,847	31,387
09	39,400	39,203	34,847	31,387
10	40,309	40,077	34,847	31,387
11	—	41,052	34,847	31,387

¹ Expanded Operating Capacity (EOC) is the bed space count yielded by calculating the number of general population single cells with one inmate per cell, the number of cells that house two inmates, and the number of inmates in dormitories operating at varying percentages beyond their Standard Operating Capacity (SOC) which is rounded up to the closest double bunk configuration.

² Standard Operating Capacity (SOC) is the bed space count yielded by calculating the number of general population single cells with one inmate per cell plus the number of inmates who can be housed in dormitories by dividing the gross square feet of each dormitory by 50 square feet and rounding to the closest double bunk configuration.

Appendix C

*****Effective for Offenses Committed on or after 12/1/95*****

**FELONY PUNISHMENT CHART
PRIOR RECORD LEVEL**

	I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts	
A	Death or Life Without Parole						
B1	A <i>240-300</i>	A <i>288-360</i>	A <i>336-420</i>	A <i>384-480</i>	A <i>Life Without Parole</i>	A <i>Life Without Parole</i>	DISPOSITION <i>Aggravated Range</i>
	192-240	230-288	269-336	307-384	346-433	384-480	PRESUMPTIVE RANGE
	<i>144-192</i>	<i>173-230</i>	<i>202-269</i>	<i>230-307</i>	<i>260-346</i>	<i>288-384</i>	<i>Mitigated Range</i>
B2	A <i>157 - 196</i>	A <i>189 - 237</i>	A <i>220 - 276</i>	A <i>251 - 313</i>	A <i>282 - 353</i>	A <i>313 - 392</i>	
	125 - 157	151 - 189	176 - 220	201 - 251	225 - 282	251 - 313	
	<i>94 - 125</i>	<i>114 - 151</i>	<i>132 - 176</i>	<i>151 - 201</i>	<i>169 - 225</i>	<i>188 - 251</i>	
C	A <i>73 - 92</i>	A <i>100 - 125</i>	A <i>116 - 145</i>	A <i>133 - 167</i>	A <i>151 - 188</i>	A <i>168 - 210</i>	
	58 - 73	80 - 100	93 - 116	107-133	121 - 151	135 - 168	
	<i>44 - 58</i>	<i>60 - 80</i>	<i>70 - 93</i>	<i>80 - 107</i>	<i>90 - 121</i>	<i>101-135</i>	
D	A <i>64 - 80</i>	A <i>77 - 95</i>	A <i>103 - 129</i>	A <i>117 - 146</i>	A <i>133 - 167</i>	A <i>146 - 183</i>	
	51 - 64	61 - 77	82 - 103	94 - 117	107 - 133	117 - 146	
	<i>38 - 51</i>	<i>46 - 61</i>	<i>61 - 82</i>	<i>71 - 94</i>	<i>80 - 107</i>	<i>88 - 117</i>	
E	I/A <i>25 - 31</i>	I/A <i>29 - 36</i>	A <i>34 - 42</i>	A <i>46 - 58</i>	A <i>53 - 66</i>	A <i>59 - 74</i>	
	20 - 25	23 - 29	27 - 34	37 - 46	42 - 53	47 - 59	
	<i>15 - 20</i>	<i>17 - 23</i>	<i>20 - 27</i>	<i>28 - 37</i>	<i>32 - 42</i>	<i>35 - 47</i>	
F	I/A <i>16 - 20</i>	I/A <i>19 - 24</i>	I/A <i>21 - 26</i>	A <i>25 - 31</i>	A <i>34 - 42</i>	A <i>39 - 49</i>	
	13 - 16	15 - 19	17 - 21	20 - 25	27 - 34	31 - 39	
	<i>10 - 13</i>	<i>11 - 15</i>	<i>13 - 17</i>	<i>15 - 20</i>	<i>20 - 27</i>	<i>23 - 31</i>	
G	I/A <i>13 - 16</i>	I/A <i>15 - 19</i>	I/A <i>16 - 20</i>	I/A <i>20 - 25</i>	A <i>21 - 26</i>	A <i>29 - 36</i>	
	10 - 13	12 - 15	13 - 16	16 - 20	17 - 21	23 - 29	
	<i>8 - 10</i>	<i>9 - 12</i>	<i>10 - 13</i>	<i>12 - 16</i>	<i>13 - 17</i>	<i>17 - 23</i>	
H	C/I/A <i>6 - 8</i>	I/A <i>8 - 10</i>	I/A <i>10 - 12</i>	I/A <i>11 - 14</i>	I/A <i>15 - 19</i>	A <i>20 - 25</i>	
	5 - 6	6 - 8	8 - 10	9 - 11	12 - 15	16 - 20	
	<i>4 - 5</i>	<i>4 - 6</i>	<i>6 - 8</i>	<i>7 - 9</i>	<i>9 - 12</i>	<i>12 - 16</i>	
I	C <i>6 - 8</i>	C/I <i>6 - 8</i>	I <i>6 - 8</i>	I/A <i>8 - 10</i>	I/A <i>9 - 11</i>	I/A <i>10 - 12</i>	
	4 - 6	4 - 6	5 - 6	6 - 8	7 - 9	8 - 10	
	<i>3 - 4</i>	<i>3 - 4</i>	<i>4 - 5</i>	<i>4 - 6</i>	<i>5 - 7</i>	<i>6 - 8</i>	

OFFENSE CLASS

Note: A - Active Punishment I - Intermediate Punishment C - Community Punishment
*Numbers shown are in months and represent the range of minimum sentences.

Revised: 08-04-95

Appendix C
MINIMUM AND MAXIMUM SENTENCES

The corresponding maximum sentence for each minimum sentence is shown in the tables below. In each column, the number to the left of the dash represents the minimum sentence (in months) and the number to the right of the dash represents the corresponding maximum sentence (in months). To calculate a maximum sentence when the minimum sentence is 340 months or more, see G.S. 15A-1340.17(e1).

FOR OFFENSE CLASSES B1 THROUGH E

15-27	56-77	97-126	138-175	179-224	220-273	261-323	302-372
16-29	57-78	98-127	139-176	180-225	221-275	262-324	303-373
17-30	58-79	99-128	140-177	181-227	222-276	263-325	304-374
18-31	59-80	100-129	141-179	182-228	223-277	264-326	305-375
19-32	60-81	101-131	142-180	183-229	224-278	265-327	306-377
20-33	61-83	102-132	143-181	184-230	225-279	266-329	307-378
21-35	62-84	103-133	144-182	185-231	226-281	267-330	308-379
22-36	63-85	104-134	145-183	186-233	227-282	268-331	309-380
23-37	64-86	105-135	146-185	187-234	228-283	269-332	310-381
24-38	65-87	106-137	147-186	188-235	229-284	270-333	311-383
25-39	66-89	107-138	148-187	189-236	230-285	271-335	312-384
26-41	67-90	108-139	149-188	190-237	231-287	272-336	313-385
27-42	68-91	109-140	150-189	191-239	232-288	273-337	314-386
28-43	69-92	110-141	151-191	192-240	233-289	274-338	315-387
29-44	70-93	111-143	152-192	193-241	234-290	275-339	316-389
30-45	71-95	112-144	153-193	194-242	235-291	276-341	317-390
31-47	72-96	113-145	154-194	195-243	236-293	277-342	318-391
32-48	73-97	114-146	155-195	196-245	237-294	278-343	319-392
33-49	74-98	115-147	156-197	197-246	238-295	279-344	320-393
34-50	75-99	116-149	157-198	198-247	239-296	280-345	321-395
35-51	76-101	117-150	158-199	199-248	240-297	281-347	322-396
36-53	77-102	118-151	159-200	200-249	241-299	282-348	323-397
37-54	78-103	119-152	160-201	201-251	242-300	283-349	324-398
38-55	79-104	120-153	161-203	202-252	243-301	284-350	325-399
39-56	80-105	121-155	162-204	203-253	244-302	285-351	326-401
40-57	81-107	122-156	163-205	204-254	245-303	286-353	327-402
41-59	82-108	123-157	164-206	205-255	246-305	287-354	328-403
42-60	83-109	124-158	165-207	206-257	247-306	288-355	329-404
43-61	84-110	125-159	166-209	207-258	248-307	289-356	330-405
44-62	85-111	126-161	167-210	208-259	249-308	290-357	331-407
45-63	86-113	127-162	168-211	209-260	250-309	291-359	332-408
46-65	87-114	128-163	169-212	210-261	251-311	292-360	333-409
47-66	88-115	129-164	170-213	211-263	252-312	293-361	334-410
48-67	89-116	130-165	171-215	212-264	253-313	294-362	335-411
49-68	90-117	131-167	172-216	213-265	254-314	295-363	336-413
50-69	91-119	132-168	173-217	214-266	255-315	296-365	337-414
51-71	92-120	133-169	174-218	215-267	256-317	297-366	338-415
52-72	93-121	134-170	175-219	216-269	257-318	298-367	339-416
53-73	94-122	135-171	176-221	217-270	258-319	299-368	
54-74	95-123	136-173	177-222	218-271	259-320	300-369	
55-75	96-125	137-174	178-223	219-272	260-321	301-371	

FOR OFFENSE CLASSES F THROUGH I

3-4	9-11	15-18	21-26	27-33	33-40	39-47	45-54
4-5	10-12	16-20	22-27	28-34	34-41	40-48	46-56
5-6	11-14	17-21	23-28	29-35	35-42	41-50	47-57
6-8	12-15	18-22	24-29	30-36	36-44	42-51	48-58
7-9	13-16	19-23	25-30	31-38	37-45	43-52	49-59
8-10	14-17	20-24	26-32	32-39	38-46	44-53	

Appendix C
PRIOR RECORD WORKSHEET
(For offenses committed on or after December 1, 1997)

I. SCORING PRIOR RECORD/FELONY SENTENCING

NUMBER	TYPE		POINTS
	Prior Felony Class A Conviction	x 10	
	Prior Felony Class B1 Conviction	x 9	
	Prior Felony Class B2 or C or D Conviction	x 6	
	Prior Felony Class E or F or G Conviction	x 4	
	Prior Felony Class H or I Conviction	x 2	
	Prior Misdemeanor Class A1 or 1 Conviction*, Prior Impaired Driving Conviction, or Prior Impaired Driving in a Commercial Vehicle Conviction	x 1	
		SUBTOTAL	
If all the elements of the present offense are included in any prior offense, whether or not the prior offense was used in determining prior record level		+ 1	
If the offense was committed: (a) while on probation, parole, or post-release supervision; or (b) while serving a sentence of imprisonment; or (c) while on escape		+ 1	
		TOTAL	

**Class 1 misdemeanor offenses under Chapter 20 are not assigned any points except for misdemeanor death by vehicle [G.S. 20-141.4(a)(2)]*

II. CLASSIFYING PRIOR RECORD LEVEL

POINTS	LEVEL
0	I
1 - 4	II
5 - 8	III
9 - 14	IV
15 - 18	V
19+	VI

Appendix C
NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION
EXAMPLES OF FELONY OFFENSES BY OFFENSE CLASS

CLASS A FELONIES	
Murder, First Degree (14-17)	
CLASS B1 FELONIES	
Rape, First Degree (14-27.2)	Statutory Rape or Sexual Offense of a Person who is 13, 14, 15 Years Old (14-27.7A(a))
Sexual Offense, First Degree (14-27.4)	
CLASS B2 FELONIES	
Murder, Second Degree (14-17)	
CLASS C FELONIES	
Habitual Felon (14-7.6)	Assault W/D/W/I/K/I/S/I (14-32(a))
Rape, Second Degree (14-27.3)	Kidnapping, First Degree (14-39)
Sexual Offense, Second Degree (14-27.5)	Embezzlement (Amount involved \$100,000 or more) (14-90)
CLASS D FELONIES	
Voluntary Manslaughter (14-18)	Arson, First Degree (14-58)
Burglary, First Degree (14-51)	Armed Robbery (14-87)
CLASS E FELONIES	
Assault W/D/W/I/S/I (14-32(b))	Assault with a Firearm on a Law Enforcement Officer (14-34.5)
Assault W/D/W/I/K (14-32(c))	Kidnapping, Second Degree (14-39)
Discharging Weapon Into Occupied Property (14-34.1)	Child Abuse I/S/I (14-318.4)
CLASS F FELONIES	
Involuntary Manslaughter (14-18)	Burning of Certain Other Buildings (14-62)
Assault Inflicting Serious Bodily Injury (14-32.4)	Indecent Liberties with Children (14-202.1)
Assault W/D/W on a Governmental Officer or Employee (14-34.2)	Habitual Impaired Driving (20-138.5)
CLASS G FELONIES	
Burglary, Second Degree (14-51)	Possession of Firearms, etc., by Felon (14-415.1)
Arson, Second Degree (14-58)	Death by Vehicle (20-141.4)
Common Law Robbery (14-87.1)	Sale of a Schedule I or II Controlled Substance (90-95(a)(1))

CLASS H FELONIES	
Breaking or Entering Buildings (14-54(a))	Embezzlement (amount involved less than \$100,000) (14-90)
Possessing Stolen Goods Worth More than \$1,000 (14-71.1)	Obtaining Property by False Pretenses (amount involved less than \$100,000) (14-100)
Larceny of Property Worth More than \$1,000 (14-72)	Sale of a Schedule III, IV, V, or VI Controlled Substance (90-95(a)(1))
CLASS I FELONIES	
Breaking or Entering Motor Vehicles (14-56)	Possess Cocaine (90-95(a)(3))
Forgery of Notes, Checks, Securities (14-119)	Possess Schedule II Controlled Substance (90-95(d)(2))
Uttering Forged Paper or Instrument (14-120)	Possess Marijuana (90-95(d)(4))
Possession W/I/M/S/D Marijuana (90-95(a)(1))	Maintain Dwelling or Motor Vehicle for Keeping or Selling a Controlled Substance (90-108(A)(7), (B))
CONSPIRACY to commit an offense is classified as one class lower than the offense the person conspired to commit. (14-2.4)	
ATTEMPT to commit an offense is classified as one class lower than the offense the person attempted to commit. (14-2.5)	
SOLICITATION to commit an offense is classified as two classes lower than the offense the person solicited the other person to commit. (14-2.6)	
ACCESSORY BEFORE THE FACT punishable as the principal felon. (14-5.2)	
ACCESSORY AFTER THE FACT punishable as two classes lower than the felony the principal felon committed. (14-7)	

**Appendix D
(Alternative 2)**

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

Alternative 2: Punish habitual felons three classes higher than the offense classification for the principal offense, but in no case higher than Class C, and require an active sentence.

**Distribution of Habitual Felon Convictions and Average Estimated Time Served
Under Current Law and As Proposed
FY 2000/2001 Felony Data**

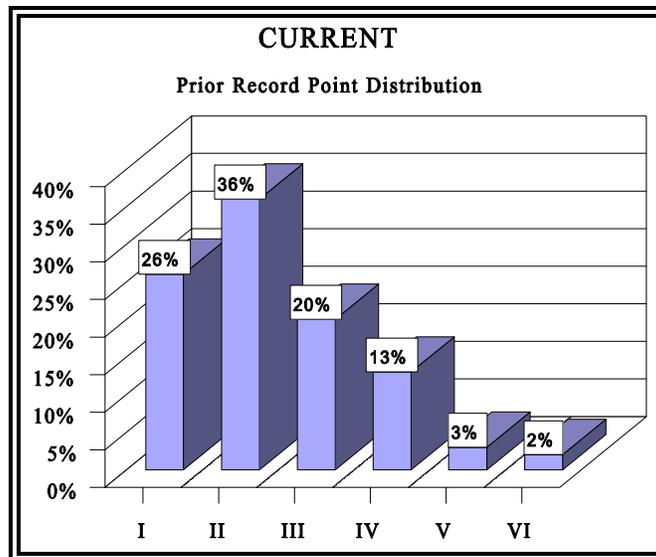
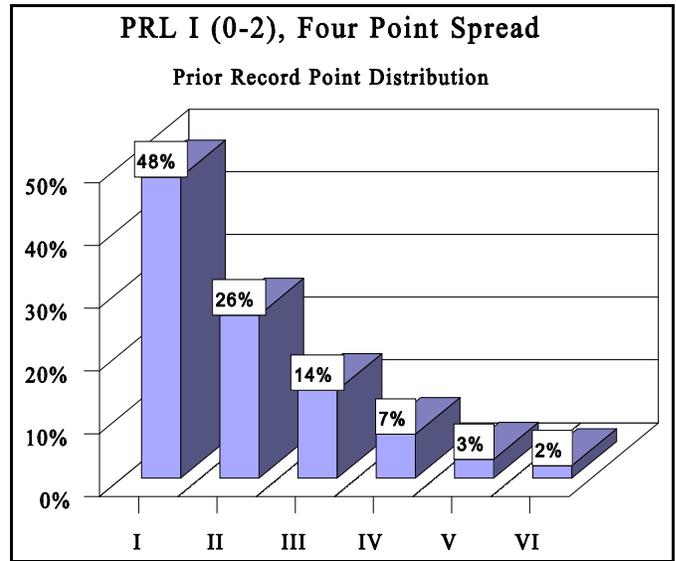
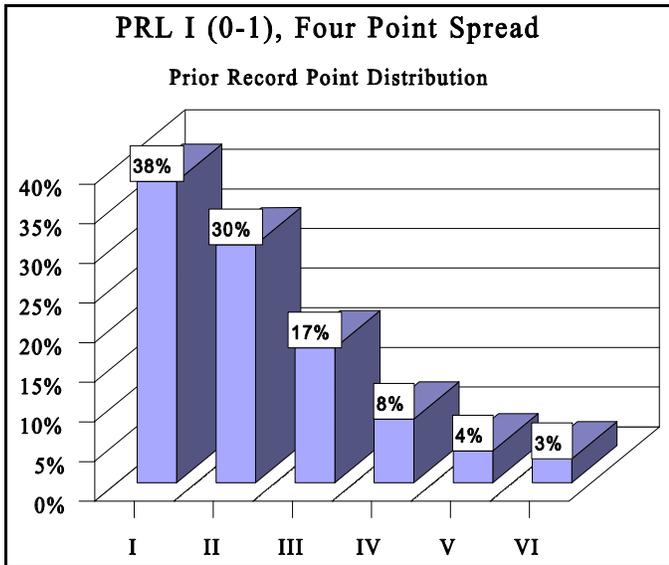
Offense Class	Underlying Offense	Current Law	As Proposed
B1	3	3	3
B2	3	3	3
C	39	641	114
D	37		103
E	11		310
F	27		113
G	103		0
H	310		1
I	113		
Class 1 Misd.	1		
TOTAL	647	647	647
Average Estimated Time Served		99.2 months	65.5 months

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2000/2001 Felony Simulation Data

**Appendix D
(Alternative 3)**

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

PRIOR RECORD LEVEL REDISTRIBUTION OPTIONS



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2000/2001 Felony Simulation Data

**Appendix D
(Alternative 5)**

**Reallocation of Time Under Post-Release Supervision: Offense Classes B1-E
FY 2000/2001 Felony Data**

Offense Class	No. of Active Sentences	Current Grid: FY 1999/2000		Reallocation: 3 Month Reduction of Minimums for Offense Classes B1-E	
		Average Minimum Sentence Imposed	Average Estimated Time Served	Average Minimum Sentence Imposed	Average Estimated Time Served
B1	131	246.6	301.3	243.6	298.3
B2	275	177.8	200.6	174.8	197.6
C	910	91.5	98.9	88.5	95.9
D	746	72.1	78.9	69.1	75.9
E	534	30.9	29.7	27.9	26.7
Total	2,596	90.4	99.9	87.4	96.9

Note: This table excludes violent habitual felon and drug trafficking convictions. Convictions that do not fit within the grid due to discrepant offense classes, prior record levels, or sentence lengths are included in this table. Sentences resulting in life without parole or death were excluded from the calculation of the average sentence imposed and average estimated time served. Sentences that fall outside the range appropriate for their grid cell are included in the calculation of the average sentence imposed and average estimated time served.

Appendix E

RECLASSIFY STATUTORY RAPE OR SEXUAL OFFENSE OF A PERSON WHO IS 13, 14, OR 15 YEARS OLD BY A DEFENDANT WHO IS MORE THAN FOUR YEARS BUT LESS THAN SIX YEARS OLDER (N.C.G.S. 14-27.7A(b)).

SECTION 1. G.S. 14-27.7A(b) reads as rewritten:

§ 14-27.7A. Statutory rape or sexual offense of person who is 13, 14, or 15 years old.

“(b) A defendant is guilty of a Class C F felony if the defendant engages in vaginal intercourse or a sexual act with another person who is 13, 14, or 15 years old and the defendant is more than four but less than six years older than the person, except when the defendant is lawfully married to the person.”

SECTION 2. This act becomes effective December 1, 2002, and applies to offenses committed on or after that date.

PUNISH HABITUAL FELONS THREE CLASSES HIGHER THAN THE OFFENSE CLASSIFICATION FOR THE PRINCIPAL OFFENSE, BUT IN NO CASE HIGHER THAN CLASS C, AND REQUIRE AN ACTIVE SENTENCE

SECTION 1. G.S. 14-7.6 reads as rewritten:

“§ 14-7.6. Sentencing of habitual felons.

When an habitual felon as defined in this Article commits any felony under the laws of the State of North Carolina, the felon must, upon conviction or plea of guilty under indictment as provided in this Article (except where the felon has been sentenced as a Class A, B1, or B2 felon) be sentenced as a felon three classes higher than the principal felony, but in no case higher than a Class C felon. Notwithstanding the sentencing dispositions in G.S. 15A-1340.17, the felon shall be sentenced to an active punishment. In determining the prior record level, convictions used to establish a person's status as an habitual felon shall not be used. Sentences imposed under this Article shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced under this section.”

SECTION 2. This act becomes effective December 1, 2002, and applies to offenses committed on or after that date.

RESTRUCTURE THE PRIOR RECORD LEVEL POINT RANGES IN ORDER TO EXPAND THE POINTS IN PRIOR RECORD LEVEL I (0 to 1) AND TO EVEN OUT THE REMAINING RANGES

SECTION 1. G.S. 15A-1340.14(c) reads as rewritten:

§ 15A-1340.14. Prior record level for felony sentencing.

“(c) Prior Record Levels for Felony Sentencing. - The prior record levels for felony sentencing are:

- (1) Level I - ~~0 points~~. Not more than 1 point.
- (2) Level II - At least ~~1~~, 2, but not more than ~~4~~ 5 points.
- (3) Level III - At least ~~5~~, 6, but not more than ~~8~~ 9 points.
- (4) Level IV - At least ~~9~~, 10, but not more than ~~14~~ 13 points.
- (5) Level V - At least ~~15~~, 14, but not more than ~~18~~ 17 points.
- (6) Level VI - At least ~~19~~ 18 points.

In determining the prior record level, the classification of a prior offense is the classification assigned to that offense at the time the offense for which the offender is being sentenced is committed.”

SECTION 2. G.S. 15A-1340.17(c) reads as rewritten:

§ 15A-1340.17. Punishment limits for each class of offense and prior record level.

“(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described. - The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

- (1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; "A" indicates that an active punishment is authorized; and "Life Imprisonment Without Parole" indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.
- (2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.
- (3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.
- (4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I	II	III	IV	V	VI
	0 Pts	1-4 Pts	5-8 Pts	9-14 Pts	15-18 Pts	19+ Pts
	<u>0-1 Pt</u>	<u>2-5 Pts</u>	<u>6-9 Pts</u>	<u>10-13 Pts</u>	<u>14-17 Pts</u>	<u>18+ Pts</u>

A Life Imprisonment Without Parole or Death as Established by Statute

	A	A	A	A	A	A	DISPOSITION
	240-300	288-360	336-420	384-480	Life Imprisonment Without Parole		Aggravated
B1	192-240	230-288	269-336	307-384	346-433	384-480	PRESUMPTIVE
	144-192	173-230	202-269	230-307	260-346	288-384	Mitigated
	A	A	A	A	A	A	DISPOSITION
B2	157-196	189-237	220-276	251-313	282-353	313-392	Aggravated
	125-157	151-189	176-220	201-251	225-282	251-313	PRESUMPTIVE
	94-125	114-151	132-176	151-201	169-225	188-251	Mitigated
	A	A	A	A	A	A	DISPOSITION
C	73-92	100-125	116-145	133-167	151-188	168-210	Aggravated
	58-73	80-100	93-116	107-133	121-151	135-168	PRESUMPTIVE
	44-58	60-80	70-93	80-107	90-121	101-135	Mitigated
	A	A	A	A	A	A	DISPOSITION
D	64-80	77-95	103-129	117-146	133-167	146-183	Aggravated
	51-64	61-77	82-103	94-117	107-133	117-146	PRESUMPTIVE
	38-51	46-61	61-82	71-94	80-107	88-117	Mitigated
	I/A	I/A	A	A	A	A	DISPOSITION
E	25-31	29-36	34-42	46-58	53-66	59-74	Aggravated
	20-25	23-29	27-34	37-46	42-53	47-59	PRESUMPTIVE
	15-20	17-23	20-27	28-37	32-42	35-47	Mitigated
	I/A	I/A	I/A	A	A	A	DISPOSITION
F	16-20	19-24	21-26	25-31	34-42	39-49	Aggravated
	13-16	15-19	17-21	20-25	27-34	31-39	PRESUMPTIVE
	10-13	11-15	13-17	15-20	20-27	23-31	Mitigated
	I/A	I/A	I/A	I/A	A	A	DISPOSITION
G	13-16	15-19	16-20	20-25	21-26	29-36	Aggravated
	10-13	12-15	13-16	16-20	17-21	23-29	PRESUMPTIVE
	8-10	9-12	10-13	12-16	13-17	17-23	Mitigated
	C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
H	6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
	4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
	C	C/I	I	I/A	I/A	I/A	DISPOSITION

	6-8	6-8	6-8	8-10	9-11	10-12	Aggravated
I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
	3-4	3-4	4-5	4-6	5-7	6-8	Mitigated”

SECTION 3. This act becomes effective December 1, 2002, and applies to offenses committed on or after that date.

RESTRUCTURE THE PRIOR RECORD LEVEL POINT RANGES IN ORDER TO EXPAND THE POINTS IN PRIOR RECORD LEVEL I (0 to 2) AND TO EVEN OUT THE REMAINING RANGES

SECTION 1. G.S. 15A-1340.14(c) reads as rewritten:

§ 15A-1340.14. Prior record level for felony sentencing.

“(c) Prior Record Levels for Felony Sentencing. - The prior record levels for felony sentencing are:

- (1) Level I - ~~0 points.~~ Not more than 2 points.
- (2) Level II - At least ~~1,~~ 3, but not more than ~~4~~ 6 points.
- (3) Level III - At least ~~5,~~ 7, but not more than ~~8~~ 10 points.
- (4) Level IV - At least ~~9,~~ 11, but not more than 14 points.
- (5) Level V - At least 15, but not more than 18 points.
- (6) Level VI - At least 19 points.

In determining the prior record level, the classification of a prior offense is the classification assigned to that offense at the time the offense for which the offender is being sentenced is committed.”

SECTION 2. G.S. 15A-1340.17(c) reads as rewritten:

§ 15A-1340.17. Punishment limits for each class of offense and prior record level.

“(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described. - The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

- (1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; "A" indicates that an active punishment is authorized; and "Life Imprisonment Without Parole" indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.
- (2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.
- (3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.
- (4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

I	II	III	IV	V	VI
0 Pts	1-4 Pts	5-8 Pts	9-14 Pts	15-18 Pts	19+ Pts
<u>0-2 Pts</u>	<u>3-6 Pts</u>	<u>7-10 Pts</u>	<u>11-14 Pts</u>		

A Life Imprisonment Without Parole or Death as Established by Statute

	A	A	A	A	A	A	DISPOSITION
	240-300	288-360	336-420	384-480	Life Imprisonment Without Parole		Aggravated
B1	192-240	230-288	269-336	307-384	346-433	384-480	PRESUMPTIVE
	144-192	173-230	202-269	230-307	260-346	288-384	Mitigated
	A	A	A	A	A	A	DISPOSITION
B2	157-196	189-237	220-276	251-313	282-353	313-392	Aggravated
	125-157	151-189	176-220	201-251	225-282	251-313	PRESUMPTIVE
	94-125	114-151	132-176	151-201	169-225	188-251	Mitigated
	A	A	A	A	A	A	DISPOSITION
C	73-92	100-125	116-145	133-167	151-188	168-210	Aggravated
	58-73	80-100	93-116	107-133	121-151	135-168	PRESUMPTIVE
	44-58	60-80	70-93	80-107	90-121	101-135	Mitigated
	A	A	A	A	A	A	DISPOSITION
D	64-80	77-95	103-129	117-146	133-167	146-183	Aggravated
	51-64	61-77	82-103	94-117	107-133	117-146	PRESUMPTIVE
	38-51	46-61	61-82	71-94	80-107	88-117	Mitigated
	I/A	I/A	A	A	A	A	DISPOSITION
E	25-31	29-36	34-42	46-58	53-66	59-74	Aggravated
	20-25	23-29	27-34	37-46	42-53	47-59	PRESUMPTIVE
	15-20	17-23	20-27	28-37	32-42	35-47	Mitigated
	I/A	I/A	I/A	A	A	A	DISPOSITION
F	16-20	19-24	21-26	25-31	34-42	39-49	Aggravated
	13-16	15-19	17-21	20-25	27-34	31-39	PRESUMPTIVE
	10-13	11-15	13-17	15-20	20-27	23-31	Mitigated
	I/A	I/A	I/A	I/A	A	A	DISPOSITION
G	13-16	15-19	16-20	20-25	21-26	29-36	Aggravated
	10-13	12-15	13-16	16-20	17-21	23-29	PRESUMPTIVE
	8-10	9-12	10-13	12-16	13-17	17-23	Mitigated
	C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
H	6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
	4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
	C	C/I	I	I/A	I/A	I/A	DISPOSITION

	6-8	6-8	6-8	8-10	9-11	10-12	Aggravated
I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
	3-4	3-4	4-5	4-6	5-7	6-8	Mitigated”

SECTION 3. This act becomes effective December 1, 2002, and applies to offenses committed on or after that date.

MAKE THE INCREASE IN SENTENCE LENGTHS BETWEEN PRIOR RECORD LEVELS MORE PROPORTIONATE USING A SET PERCENTAGE INCREMENT

SECTION 1. G.S. 15A-1340.17(c) reads as rewritten:

§ 15A-1340.17. Punishment limits for each class of offense and prior record level.

“(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described. - The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

- (1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; "A" indicates that an active punishment is authorized; and "Life Imprisonment Without Parole" indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.
- (2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.
- (3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.
- (4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I	II	III	IV	V	VI	
	0 Pts	1-4 Pts	5-8 Pts	9-14 Pts	15-18 Pts	19+ Pts	
A	Life Imprisonment Without Parole or Death as Established by Statute						
	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	DISPOSITION
	240-300	288-360	336-420	384-480	Life Imprisonment Without Parole	384-480	Aggravated
B1	192-240	230-288	269-336	307-384	346-433	384-480	PRESUMPTIVE
	144-192	173-230	202-269	230-307	260-346	288-384	Mitigated
	<u>240-300</u>	<u>276-345</u>	<u>317-397</u>	<u>365-456</u>	<u>Life Imprisonment</u> <u>Without Parole</u>		<u>Aggravated</u>
B1	<u>192-240</u>	<u>221-276</u>	<u>254-317</u>	<u>292-365</u>	<u>336-420</u>	<u>386-483</u>	PRESUMPTIVE
	<u>144-192</u>	<u>166-221</u>	<u>190-254</u>	<u>219-292</u>	<u>252-336</u>	<u>290-386</u>	<u>Mitigated</u>

	A	A	A	A	A	A	DISPOSITION
	157-196	189-237	220-276	251-313	282-353	313-392	Aggravated
B2	125-157	151-189	176-220	201-251	225-282	251-313	PRESUMPTIVE
	94-125	114-151	132-176	151-201	169-225	188-251	Mitigated
	<u>157-196</u>	<u>180-225</u>	<u>207-258</u>	<u>238-297</u>	<u>273-342</u>	<u>314-393</u>	<u>Aggravated</u>
B2	<u>125-157</u>	<u>144-180</u>	<u>165-207</u>	<u>190-238</u>	<u>219-273</u>	<u>251-314</u>	<u>PRESUMPTIVE</u>
	<u>94-125</u>	<u>108-144</u>	<u>124-165</u>	<u>143-190</u>	<u>164-219</u>	<u>189-251</u>	<u>Mitigated</u>

	A	A	A	A	A	A	DISPOSITION
	73-92	100-125	116-145	133-167	151-188	168-210	Aggravated
E	58-73	80-100	93-116	107-133	121-151	135-168	PRESUMPTIVE
	44-58	60-80	70-93	80-107	90-121	101-135	Mitigated
	<u>73-92</u>	<u>83-104</u>	<u>96-120</u>	<u>110-138</u>	<u>127-159</u>	<u>146-182</u>	<u>Aggravated</u>
C	<u>58-73</u>	<u>67-83</u>	<u>77-96</u>	<u>88-110</u>	<u>101-127</u>	<u>117-146</u>	<u>PRESUMPTIVE</u>
	<u>44-58</u>	<u>50-67</u>	<u>58-77</u>	<u>66-88</u>	<u>76-101</u>	<u>87-117</u>	<u>Mitigated</u>

	A	A	A	A	A	A	DISPOSITION
	64-80	77-95	103-129	117-146	133-167	146-183	Aggravated
D	51-64	61-77	82-103	94-117	107-133	117-146	PRESUMPTIVE
	38-51	46-61	61-82	71-94	80-107	88-117	Mitigated
	<u>64-80</u>	<u>73-92</u>	<u>84-105</u>	<u>97-121</u>	<u>111-139</u>	<u>128-160</u>	<u>Aggravated</u>
D	<u>51-64</u>	<u>59-73</u>	<u>67-84</u>	<u>78-97</u>	<u>89-111</u>	<u>103-128</u>	<u>PRESUMPTIVE</u>
	<u>38-51</u>	<u>44-59</u>	<u>51-67</u>	<u>58-78</u>	<u>67-89</u>	<u>77-103</u>	<u>Mitigated</u>

	I/A	I/A	A	A	A	A	DISPOSITION
	25-31	29-36	34-42	46-58	53-66	59-74	Aggravated
E	20-25	23-29	27-34	37-46	42-53	47-59	PRESUMPTIVE
	15-20	17-23	20-27	28-37	32-42	35-47	Mitigated
	<u>25-31</u>	<u>29-36</u>	<u>33-41</u>	<u>38-48</u>	<u>44-55</u>	<u>50-63</u>	<u>Aggravated</u>
E	<u>20-25</u>	<u>23-29</u>	<u>26-33</u>	<u>30-38</u>	<u>35-44</u>	<u>40-50</u>	<u>PRESUMPTIVE</u>
	<u>15-20</u>	<u>17-23</u>	<u>20-26</u>	<u>23-30</u>	<u>26-35</u>	<u>30-40</u>	<u>Mitigated</u>

	I/A	I/A	I/A	A	A	A	DISPOSITION
	16-20	19-24	21-26	25-31	34-42	39-49	Aggravated
F	13-16	15-19	17-21	20-25	27-34	31-39	PRESUMPTIVE
	10-13	11-15	13-17	15-20	20-27	23-31	Mitigated
	<u>16-20</u>	<u>19-23</u>	<u>21-27</u>	<u>25-31</u>	<u>28-36</u>	<u>33-41</u>	<u>Aggravated</u>
F	<u>13-16</u>	<u>15-19</u>	<u>17-21</u>	<u>20-25</u>	<u>23-28</u>	<u>26-33</u>	<u>PRESUMPTIVE</u>
	<u>10-13</u>	<u>11-15</u>	<u>13-17</u>	<u>15-20</u>	<u>17-23</u>	<u>20-26</u>	<u>Mitigated</u>

	I/A	I/A	I/A	I/A	A	A	DISPOSITION
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	13-16	15-19	16-20	20-25	21-26	29-36	Aggravated
G	10-13	12-15	13-16	16-20	17-21	23-29	PRESUMPTIVE
	8-10	9-12	10-13	12-16	13-17	17-23	Mitigated
	<u>13-16</u>	<u>14-18</u>	<u>17-21</u>	<u>19-24</u>	<u>22-27</u>	<u>25-31</u>	<u>Aggravated</u>
G	<u>10-13</u>	<u>12-14</u>	<u>13-17</u>	<u>15-19</u>	<u>17-22</u>	<u>20-25</u>	<u>PRESUMPTIVE</u>
	<u>8-10</u>	<u>9-12</u>	<u>10-13</u>	<u>11-15</u>	<u>13-17</u>	<u>15-20</u>	<u>Mitigated</u>
	C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
	6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
H	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
	4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
	C	C/I	I	I/A	I/A	I/A	DISPOSITION
	6-8	6-8	6-8	8-10	9-11	10-12	Aggravated
I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
	3-4	3-4	4-5	4-6	5-7	6-8	Mitigated

SECTION 2. This act becomes effective December 1, 2002, and applies to offenses committed on or after that date.

REALLOCATE THREE MONTHS FROM THE MINIMUM SENTENCE OF CLASSES B1 THROUGH E TO THE MAXIMUM SENTENCE, INCREASE THE PERIOD OF POST-RELEASE SUPERVISION FROM NINE MONTHS TO TWELVE MONTHS

SECTION 1. G.S. 15A-1340.17(c) reads as rewritten:

§ 15A-1340.17. Punishment limits for each class of offense and prior record level.

“(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described. - The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

- (1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; "A" indicates that an active punishment is authorized; and "Life Imprisonment Without Parole" indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.
- (2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.
- (3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.
- (4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts	
A	Life Imprisonment Without Parole or Death as Established by Statute						
	A 240-300	A 288-360	A 336-420	A 384-480	A Life Imprisonment Without Parole	A 346-433	DISPOSITION Aggravated
B1	192-240	230-288	269-336	307-384	346-433	384-480	PRESUMPTIVE
	144-192	173-230	202-269	230-307	260-346	288-384	Mitigated
	<u>237-297</u>	<u>285-357</u>	<u>333-417</u>	<u>381-477</u>	<u>Life Imprisonment Without Parole</u>		<u>Aggravated</u>
B1	<u>189-237</u>	<u>227-285</u>	<u>266-333</u>	<u>304-381</u>	<u>343-430</u>	<u>381-477</u>	PRESUMPTIVE
	<u>141-189</u>	<u>170-227</u>	<u>199-266</u>	<u>227-304</u>	<u>257-343</u>	<u>285-381</u>	<u>Mitigated</u>

	A	A	A	A	A	A	DISPOSITION
	157-196	189-237	220-276	251-313	282-353	313-392	Aggravated
B2	125-157	151-189	176-220	201-251	225-282	251-313	PRESUMPTIVE
	94-125	114-151	132-176	151-201	169-225	188-251	Mitigated
	154-193	186-234	217-273	248-310	279-350	310-389	Aggravated
B2	<u>122-154</u>	<u>148-186</u>	<u>173-217</u>	<u>198-248</u>	<u>222-279</u>	<u>248-310</u>	<u>PRESUMPTIVE</u>
	<u>91-122</u>	<u>111-148</u>	<u>129-173</u>	<u>148-198</u>	<u>166-222</u>	<u>185-248</u>	<u>Mitigated</u>

	A	A	A	A	A	A	DISPOSITION
	73-92	100-125	116-145	133-167	151-188	168-210	Aggravated
C	58-73	80-100	93-116	107-133	121-151	135-168	PRESUMPTIVE
	44-58	60-80	70-93	80-107	90-121	101-135	Mitigated
	70-89	97-122	113-142	130-164	148-185	165-207	Aggravated
C	<u>55-70</u>	<u>77-97</u>	<u>90-113</u>	<u>104-130</u>	<u>118-148</u>	<u>132-165</u>	<u>PRESUMPTIVE</u>
	<u>41-55</u>	<u>57-77</u>	<u>67-90</u>	<u>77-104</u>	<u>87-118</u>	<u>98-132</u>	<u>Mitigated</u>

	A	A	A	A	A	A	DISPOSITION
	64-80	77-95	103-129	117-146	133-167	146-183	Aggravated
D	51-64	61-77	82-103	94-117	107-133	117-146	PRESUMPTIVE
	38-51	46-61	61-82	71-94	80-107	88-117	Mitigated
	61-77	74-92	100-126	114-143	130-164	143-180	Aggravated
D	<u>48-61</u>	<u>58-74</u>	<u>79-100</u>	<u>91-114</u>	<u>104-130</u>	<u>114-143</u>	<u>PRESUMPTIVE</u>
	<u>35-48</u>	<u>43-58</u>	<u>58-79</u>	<u>68-91</u>	<u>77-104</u>	<u>85-114</u>	<u>Mitigated</u>

	I/A	I/A	A	A	A	A	DISPOSITION
	25-31	29-36	34-42	46-58	53-66	59-74	Aggravated
E	20-25	23-29	27-34	37-46	42-53	47-59	PRESUMPTIVE
	15-20	17-23	20-27	28-37	32-42	35-47	Mitigated
	22-28	26-33	31-39	43-55	50-63	56-71	Aggravated
E	<u>17-22</u>	<u>20-26</u>	<u>24-31</u>	<u>34-43</u>	<u>39-50</u>	<u>44-56</u>	<u>PRESUMPTIVE</u>
	<u>12-17</u>	<u>14-20</u>	<u>17-24</u>	<u>25-34</u>	<u>29-39</u>	<u>32-44</u>	<u>Mitigated</u>

	I/A	I/A	I/A	A	A	A	DISPOSITION
	16-20	19-24	21-26	25-31	34-42	39-49	Aggravated
F	13-16	15-19	17-21	20-25	27-34	31-39	PRESUMPTIVE
	10-13	11-15	13-17	15-20	20-27	23-31	Mitigated

	I/A	I/A	I/A	I/A	A	A	DISPOSITION
	13-16	15-19	16-20	20-25	21-26	29-36	Aggravated
G	10-13	12-15	13-16	16-20	17-21	23-29	PRESUMPTIVE
	8-10	9-12	10-13	12-16	13-17	17-23	Mitigated

	C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
	6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
H	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
	4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
	C	C/I	I	I/A	I/A	I/A	DISPOSITION
	6-8	6-8	6-8	8-10	9-11	10-12	Aggravated
I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
	3-4	3-4	4-5	4-6	5-7	6-8	Mitigated

(d) Maximum Sentences Specified for Class F through Class I Felonies. - Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class F through Class I felonies. The first figure in each cell in the table is the minimum term and the second is the maximum term.

3-4	4-5	5-6	6-8	7-9	8-10	9-11	10-12
11-14	12-15	13-16	14-17	15-18	16-20	17-21	18-22
19-23	20-24	21-26	22-27	23-28	24-29	25-30	26-32
27-33	28-34	29-35	30-36	31-38	32-39	33-40	34-41
35-42	36-44	37-45	38-46	39-47	40-48	41-50	42-51
43-52	44-53	45-54	46-56	47-57	48-58	49-59	

(e) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms up to 339 Months. - Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class B1 through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.

15-27	16-29	17-30	18-31	19-32	20-33	21-35	22-36
23-37	24-38	25-39	26-41	27-42	28-43	29-44	30-45
31-47	32-48	33-49	34-50	35-51	36-53	37-54	38-55
39-56	40-57	41-59	42-60	43-61	44-62	45-63	46-65
47-66	48-67	49-68	50-69	51-71	52-72	53-73	54-74
55-75	56-77	57-78	58-79	59-80	60-81	61-83	62-84
63-85	64-86	65-87	66-89	67-90	68-91	69-92	70-93
71-95	72-96	73-97	74-98	75-99	76-101	77-102	78-103
79-104	80-105	81-107	82-108	83-109	84-110	85-111	86-113
87-114	88-115	89-116	90-117	91-119	92-120	93-121	94-122

~~95-123 96-125 97-126 98-127 99-128 100-129 101-131 102-132~~
~~103-133 104-134 105-135 106-137 107-138 108-139 109-140 110-141~~
~~111-143 112-144 113-145 114-146 115-147 116-149 117-150 118-151~~
~~119-152 120-153 121-155 122-156 123-157 124-158 125-159 126-161~~
~~127-162 128-163 129-164 130-165 131-167 132-168 133-169 134-170~~
~~135-171 136-173 137-174 138-175 139-176 140-177 141-179 142-180~~
~~143-181 144-182 145-183 146-185 147-186 148-187 149-188 150-189~~
~~151-191 152-192 153-193 154-194 155-195 156-197 157-198 158-199~~
~~159-200 160-201 161-203 162-204 163-205 164-206 165-207 166-209~~
~~167-210 168-211 169-212 170-213 171-215 172-216 173-217 174-218~~
~~175-219 176-221 177-222 178-223 179-224 180-225 181-227 182-228~~
~~183-229 184-230 185-231 186-233 187-234 188-235 189-236 190-237~~
~~191-239 192-240 193-241 194-242 195-243 196-245 197-246 198-247~~
~~199-248 200-249 201-251 202-252 203-253 204-254 205-255 206-257~~
~~207-258 208-259 209-260 210-261 211-263 212-264 213-265 214-266~~
~~215-267 216-269 217-270 218-271 219-272 220-273 221-275 222-276~~
~~223-277 224-278 225-279 226-281 227-282 228-283 229-284 230-285~~
~~231-287 232-288 233-289 234-290 235-291 236-293 237-294 238-295~~
~~239-296 240-297 241-299 242-300 243-301 244-302 245-303 246-305~~
~~247-306 248-307 249-308 250-309 251-311 252-312 253-313 254-314~~
~~255-315 256-317 257-318 258-319 259-320 260-321 261-323 262-324~~
~~263-325 264-326 265-327 266-329 267-330 268-331 269-332 270-333~~
~~271-335 272-336 273-337 274-338 275-339 276-341 277-342 278-343~~
~~279-344 280-345 281-347 282-348 283-349 284-350 285-351 286-353~~
~~287-354 288-355 289-356 290-357 291-359 292-360 293-361 294-362~~
~~295-363 296-365 297-366 298-367 299-368 300-369 301-371 302-372~~
~~303-373 304-374 305-375 306-377 307-378 308-379 309-380 310-381~~
~~311-383 312-384 313-385 314-386 315-387 316-389 317-390 318-391~~
~~319-392 320-393 321-395 322-396 323-397 324-398 325-399 326-401~~
~~327-402 328-403 329-404 330-405 331-407 332-408 333-409 334-410~~
~~335-411 336-413 337-414 338-415 339-416~~

12-27 13-28 14-29 15-30 16-32 17-33 18-34 19-35
20-36 21-38 22-39 23-40 24-41 25-42 26-44 27-45
28-46 29-47 30-48 31-50 32-51 33-52 34-53 35-54
36-56 37-57 38-58 39-59 40-60 41-62 42-63 43-64
44-65 45-66 46-68 47-69 48-70 49-71 50-72 51-74
52-75 53-76 54-77 55-78 56-80 57-81 58-82 59-83
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(e1) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms of 340 Months or More. - Unless provided otherwise in a statute establishing a punishment for a specific crime, when the minimum sentence is 340 months or more, the corresponding maximum term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to the next highest month, plus ~~nine~~ twelve additional months.”

SECTION 2. G.S. 15A-1368(a)(5) reads as rewritten:

§ 15A-1368. Definitions and administration.

“(5) Maximum imposed term. - The maximum term of imprisonment imposed on an individual prisoner by a court judgment, as described in G.S. 15A-1340.13(c). When a prisoner is serving consecutive prison terms, the maximum imposed term, for purposes of this Article, is the sum of all maximum terms imposed in the court judgment or judgments, less ~~nine~~ twelve months for each of the second and subsequent sentences imposed for Class B through Class E felonies.”

SECTION 3. G.S. 15A-1368.2 reads as rewritten:

“§ 15A-1368.2. Post-release supervision eligibility and procedure.

(a) A prisoner to whom this Article applies shall be released from prison for post-release supervision on the date equivalent to his maximum imposed prison term less ~~nine~~ twelve months, less any earned time awarded by the Department of Correction or the custodian of a local confinement facility under G.S. 15A-1340.13(d). If a prisoner has not been awarded any earned time, the prisoner shall be released for post-release supervision on the date equivalent to his maximum prison term less ~~nine~~ twelve months.

(b) A prisoner shall not refuse post-release supervision.

(c) A supervisee's period of post-release supervision shall be for a period of ~~nine~~ twelve months, unless the offense is an offense for which registration is required pursuant to Article 27A of Chapter 14 of the General

Statutes. For offenses subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes, the period of post-release supervision is five years. The conditions of post-release supervision are as authorized in G.S. 15A-1368.5.

(d) A supervisee's period of post-release supervision may be reduced while the supervisee is under supervision by earned time awarded by the Department of Correction, pursuant to rules adopted in accordance with law. A supervisee is eligible to receive earned time credit toward the period of supervision for compliance with reintegrative conditions described in G.S. 15A-1368.5.

(e) Repealed by Session Laws 1997-237, s. 7.

(f) When a supervisee completes the period of post-release supervision, the sentence or sentences from which the supervisee was placed on post-release supervision are terminated.”

SECTION 4. This act becomes effective December 1, 2002, and applies to offenses committed on or after that date.

AMEND THE DEFINITION OF SPECIAL PROBATION TO REMOVE THE SIX MONTH LIMITATION ON THE PERIOD OF IMPRISONMENT

SECTION 1. G.S. 15A-1344(e) reads as rewritten:

§ 15A-1344. Response to violations; alteration and revocation.

“(e) Special Probation in Response to Violation. - When a defendant has violated a condition of probation, the court may modify his probation to place him on special probation as provided in this subsection. In placing him on special probation, the court may continue or modify the conditions of his probation and in addition require that he submit to a period or periods of imprisonment, either continuous or noncontinuous, at whatever time or intervals within the period of probation the court determines. In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the Rules and Regulations of the Department of Correction governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as a part of the written order. If imprisonment is for continuous periods, the confinement may be in either the custody of the Department of Correction or a local confinement facility. Noncontinuous periods of imprisonment under special probation may only be served in a designated local confinement or treatment facility. Except for probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, may not exceed ~~six months~~ or one fourth the maximum sentence of imprisonment imposed for the ~~offense, whichever is less.~~ offense. For probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law. No confinement other than an activated suspended sentence may be required beyond the period of probation or beyond two years of the time the special probation is imposed, whichever comes first.”

SECTION 2. G.S. 15A-1351(a) reads as rewritten:

§ 15A-1351. Sentence of imprisonment; incidents; special probation.

“(a) The judge may sentence to special probation a defendant convicted of a criminal offense other than impaired driving under G.S. 20-138.1, if based on the defendant's prior record or conviction level as found pursuant to Article 81B of this Chapter, an intermediate punishment is authorized for the class of offense of which the defendant has been convicted. A defendant convicted of impaired driving under G.S. 20-138.1 may also be sentenced to special probation. Under a sentence of special probation, the court may suspend the term of imprisonment and place the defendant on probation as provided in Article 82, Probation, and in addition require that the defendant submit to a period or periods of imprisonment in the custody of the Department of Correction or a designated local confinement or treatment facility at whatever time or intervals within the period of probation, consecutive or nonconsecutive, the court determines. In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the Rules and Regulations of the Department of Correction governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as art of the written order. If imprisonment is for continuous periods, the confinement may be in the custody of either the Department of Correction or a local confinement facility. Noncontinuous periods of imprisonment under special probation may only be served in a designated local confinement or treatment facility. Except for probationary sentences of impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, may not exceed ~~six months~~ or one fourth the maximum sentence of imprisonment imposed for the ~~offense, whichever is less,~~ and no confinement other than an activated suspended sentence may be required beyond two years of conviction. For probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special

probation, but not including an activated suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law. In imposing a sentence of special probation, the judge may credit any time spent committed or confined, as a result of the charge, to either the suspended sentence or to the imprisonment required for special probation. The original period of probation, including the period of imprisonment required for special probation, shall be as specified in G.S. 15A-1343.2(d), but may not exceed a maximum of five years, except as provided by G.S. 15A-1342(a). The court may revoke, modify, or terminate special probation as otherwise provided for probationary sentences.”

SECTION 3. This act becomes effective December 1, 2002, and applies to offenses committed on or after that date.